Walt Disney World Co. *and* Actors' Equity Association. Case 12–CA–18484

October 26, 1999

DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS LIEBMAN, AND BRAME

On December 23, 1998, Administrative Law Judge Howard I. Grossman issued the attached decision. The Respondent filed exceptions and a supporting brief, the General Counsel filed an answering brief in response to the Respondent's exceptions, and the Respondent filed a reply brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions, and to adopt the judge's recommended Order[1] as modified.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified and orders that the Respondent, Walt Disney World Co., Orlando, Florida, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 1(a).

"(a) Failing and refusing to honor requests from Actors' Equity Association for information necessary and relevant to the Union's performance of its responsibilities in representing employees of Respondent for the purpose of collective bargaining, and delaying the production of such information."

2. Substitute the following for paragraph 2(a).

"(a) Furnish the Union with all the information requested in its letters dated September 11, 1996, January 6, February 14, and June 27, 1997, except that which it has already supplied."

3. Substitute the attached notice for that of the administrative law judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT refuse or fail to honor requests from Actor's Equity Association for information necessary and relevant to the Union's performance of its responsibilities in representing employees of Respondent for the purpose of collective bargaining, and delaying the production of such information.

WE WILL NOT in any like or related manner interfere with, restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish the union with all the information requested in its letters dated September 11, 1996; January 6, 1997; February 14, 1997; and June 27, 1997; except that which it has already supplied.

WALT DISNEY WORLD CO.

Michael R. Maiman, Esq., for the General Counsel.
Charles Robinson Fawsett, Esq. (Shutts & Bowen), and *Deborah Crumbley, Employee Relations Manager,* for the Respondent.
Elizabeth Orfan, Esq. (Spivak, Lipton, Watanabe, Spival & Moss), for the Charging Party.

DECISION

STATEMENT OF THE CASE

HOWARD I. GROSSMAN, Administrative Law Judge. The original charge was filed on November 13, 1996, a first amended charge on January 21, 1997, and a second amended charge on August 7, 1997, by Actor's Equity Association (Equity or the Union). A complaint issued on February 28, 1997, and an amended complaint on July 6, 1998. As amended at the hearing, the latter alleges that Walt Disney World Co. (Respondent, or Worldco), unlawfully failed to furnish the Union with information requested by the latter on September 11, 1996, January 6, February 14, and June 27, 1997, and had unlawfully delayed supplying this information.

A hearing on these matters was started before me by telephone on July 27, 1998, continued in the same manner on August 3, 1998, and concluded in person on August 5, 1998, in Tampa, Florida. The General Counsel and Respondent filed briefs in this matter. Thereafter, Respondent filed a "Supplemental Brief," the General Counsel filed a "Motion to Strike Supplemental Brief of Respondent or in the Alternative to Allow Reply Brief," and Respondent filed an "Opposition" to the latter. On the basis of my observation of the demeanor of the witnesses and the entire record, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent is a Delaware corporation, with an office and place of business in Orlando, Florida, where it is engaged in the operation of an entertainment complex. During the 12 months preceding issuance of the complaint, Respondent received gross

[1] We shall correct the recommended Order and notice to conform to the violations found in the decision.

revenues in excess of $500,000 and received goods and materials at its Orlando, Florida facility, valued in excess of $50,000 directly from points located outside the State of Florida. Respondent is an employer engaged in commerce within the State of Florida. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. The Union is a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. The Collective-Bargaining Agreement

The Respondent and Equity are parties to a current collective-bargaining agreement (CBA) by which the Company recognizes Equity as the exclusive bargaining representative of "full time and casual performers of the Company in the classifications of Chorus, Chorus–Stepping Out and Principal (referred to as performers), excluding non-resident aliens under an appropriate visa, students working in the College Program or ECPOT Institute of Arts, and third-party sub-contractor performers." The agreement further provides that students in the College Program or ECPOT Institute of Arts will not perform in regularly scheduled shows with full-time performers, but may perform within separate productions as well as special events in combination with full-time performers.

The CBA further provides that the "scope" of the agreement is "any area within the 27,000+ acres of the WALT DISNEY WORLD VACATION KINGDOM, including but not limited to the MAGIC KINGDOM, EPCOT, and DISNEY-MGM STUDIO, River Country, hotels, motels, golf facilities, campsites, airport facilities, boats and boat landings, entrances, or any other facilities, complexes or areas on said acreage." The agreement further provides that it applies to any Walt Disney World performers assigned to make special appearances at locations within the geographical jurisdiction of Equity.[1]

Equity's eastern regional director, Carol Waaser, testified that Equity's jurisdiction comprises "the United States, including Hawaii and Alaska," and shows which are cast and rehearsed in the United States and performed in another country.

B. The Information Requests and Worldco's Responses

1. Events precipitating the information requests

Equity was concerned that performers covered by the CBA were engaged in work without the coverage and benefits of the contract. Equity Official Waaser testified that bargaining unit members called her and said that they had been cast in a show to be performed in another state by "Disney Business Productions." On April 22, 1996, Waaser and other Equity officials had a meeting with Worldco Executives Bill Ford and Jerry Montgomery. Equity inquired about "Disney Business Productions" at this meeting. Worldco's response is not clear, but Ward said that the Company was going to expand its interests in live entertainment throughout the country. One of them was a "Disney Fair," as to which Worldco was going to subcontract the live entertainment to "Renaissance Entertainment Corp." Equity received copies of audition notices for shows to be performed at Disney's Vero Beach and Hilton Head resorts, and in Hollywood in a "special event" conducted by "Walt Disney Special Events Co."[2] A trade publication ran an article in June 1996, stating that "Walt Disney Attractions" was planning a "$60 million attraction traveling in 60 trucks," and that the principals included "Walt Disney Attractions President Judson Green" and "Disney CEO Michael Eisner."[3] A newspaper article stated that "Disney's live entertainment has evolved into a "global undertaking" Judson Green, "president of Walt Disney Attractions," announced it had turned out to be a "giant undertaking."[4]

Wasser had another meeting with Worldco in May, and on June 22, 1996, wrote a letter to Worldco Executive Ward referring to the Disney auditions for Vero Beach and Hilton Head subjects which had been raised on April 22.[5]

2. The September 11, 1996 and January 6, 1997 information requests—the search for Walt Disney Attractions, Inc.

On September 11, 1996, Waaser wrote to Worldco Vice President R. G. Montgomery a letter stating that an alter ego relationship might exist between Worldco and "Walt Disney Attractions Entertainment Company." Equity had received reliable information tending to indicate this, and requested information.[6]

On November 13, 1996, Equity filed the original charge alleging Worldco's unlawful refusal to provide this information.[7]

On December 17, 1996, Worldco Manager of Employee Relations Carol Crumbley replied to Waaser's September 11 letter with a request for "the reliable information" indicating an alter ego relationship (between Worldco and "Walt Disney Attractions Entertainment Company"), and the relevance of the requested information. Crumbley also contended that compliance with the request would be burdensome.[8]

On January 6, 1997, Equity Attorney Elizabeth Orfan wrote Crumbley a letter in which Equity's request for the employees' history was reduced from 5 to 3 years, and the names of employees limited to performers. The letter requests Worldco to state whether such employees are members of the Equity or a Teamster bargaining unit, or are in neither unit. In response to a Worldco objection that the Company's stockholders number "in the millions," Orfan requested a "corporate tree" to show the relationship between Worldco and "Walt Disney Attractions Entertainment Company." Disputing Worldco's claim that Equity's request was burdensome, Orfan agreed to discuss production if Worldco would state how the records were kept,

[1] G.C. Exhs. 3 and 4, sec. I. The prior agreement has the same provisions G.C. Exh. 2.

[2] G.C. Exh. 9.

[3] G.C. Exh. 10.

[4] G.C. Exh. 11.

[5] G.C. Exh. 5

[6] The letter requested: (1) the name, job titles, responsibility, and employment history of directors, officers, supervisors, and employees of either company for the past 5 years; (2) the names of all stockholders and the percentage of stock ownership for 3 years; (3) details of contracts committing the companies to engage in business activity; (4) contracts committing one company to utilize the services, facilities, personnel, or equipment of the other company; (5) contracts requiring either company to contribute equipment, services, or money to the other; (6) bids submitted by either company to perform work for the other; (7) the names, responsibilities, and employer of persons responsible for labor relations for each company; and (8) the names of persons responsible for hiring, firing, and supervising employees. Jt. Exh. 1.

[7] G.C. Exh. 1(a).

[8] Jt. Exh. 1.

noting that information, not documents, was requested. However, Equity disputed that its request was burdensome.[9]

On February 3, 1997, Worldco Attorney Carol Pacula wrote to Equity Attorney Orfan and denied that "Walt Disney Attractions Entertainment was a corporate entity. '"Walt Disney Attractions Entertainment"' or 'Attractions Entertainment' (is) used informally from time to time to describe the entertainment function."[10]

On March 25, 1997, Pacula made the same argument to Orfan with respect to other entities about which Equity had inquired (discussed infra). "[t]hey are department names or names in the nature of trade names, not corporate entities. . . . Three of the names on the list are indeed separate corporate entities that are affiliated companies of Walt Disney World Co. but are not owned or controlled by Walt Disney World Co. . . . (3) Walt Disney Attractions, Inc. is a marketing, merchandising and promotional business which may hire performers from time to time in furtherance of these activities."[11]

Equity Attorney Orfan responded in a letter on June 27, 1997, to Crumbley:

> In its answer to the Complaint, World Co. denies that a legal entity entitled "Walt Disney Attractions Entertainment" exists. In her correspondence dated March 25, 1997, Carol Pacula states that Walt Disney Attractions, Inc. is a separate corporate entity and an affiliated company of Walt Disney World Co., but is not owned or controlled by Walt Disney World Co. Walt Disney Attractions, Inc. is described as a marketing, merchandising and promotional business which may hire performers from time to time in furtherance of these activities. What, if any, relationship exists between Walt Disney Attractions, Inc. and Walt Disney Attractions Entertainment? Is the Employer saying that Equity needs to request the information set forth in its September 11, 1996 of Walt Disney Attractions, Inc. instead of Walt Disney Attractions Entertainment? Since Equity may not know the correct names for all of World Co.'s affiliates, subsidiaries, divisions, departments or subcontrators, it appears it would be prudent for the Union to request that World Co. provide a list to the Union setting forth the names of all affiliates, subsidiaries, divisions and departments of World Co. so that Equity can police its contract. And so, Equity hereby requests that information. [12]

On June 30, 1998, Equity Business Representative Richard Delahanty wrote to Worldco Representative Crumbley and requested the names and other data concerning all individuals hired by or cast through either "Walt Disney Attractions Entertainment" or "Attractions Entertainment" since June 1, 1997, and the correct names of other divisions or departments who engaged such performers.[13]

On July 22, 1998, Worldco Representative Crumbley replied to Delehanty's letter. The first sentence reads: "Regarding the above requests, let me first reemphasize that there are no legal entities known as "Walt Disney Attractions Entertainment" or "Attractions Entertainment." Crumbley's letter includes some data on Worldco, but states that Worldco does not have the remainder of the requested information.[14]

On the same date, July 22, 1998 (5 days before the opening of the hearing in this matter), Crumbley wrote a 21-page letter to Equity Representative Waaser, and traces the correspondence outlined above. Crumbley deals with other information requests, but maintains her position that there is no legal entity named "Walt Disney Attractions Entertainment" or "Attractions Entertainment." Nonetheless, Crumbley supplies information about "Walt Disney Attractions, Inc." Judson Green is listed as the president of both Worldco and Walt Disney Attractions, Inc. Eighteen other individuals are named with identical or similar executive titles and job descriptions in both companies.[15]

The outstanding stock of "Walt Disney Attractions, Inc." is owned by Disney Enterprises, which also owns the stock of Worldco and two other corporate enterprises (discussed infra). Worldco has no contract to engage in business activity with any of the listed corporations. Worldco may furnish advice and assistance to the three corporate entities, including Walt Disney Attractions, Inc., but on an infrequent basis. Crumbley considers the request for information on bids submitted by one company on behalf of another to be "overbroad," and declines to answer it in detail. "Only Worldco has 'labor relations'" because none of the other corporations has collective-bargaining relationships. No corporate tree has been provided because "there is no such thing describing the non-existent relationship between Worldco and 'Walt Disney Attractions Entertainment Company.'" Worldco has no obligation to provide information as to any other entities, because the request is based on mere suspicion, and the information sought is privileged and confidential. Crumbley declined to give further information requested subsequent to September 11, 1996.[16]

3. The November 8, 1996 information request about subcontracting

On November 8, 1996, Equity Representative Waaser wrote to Worldco Representative R. G. Montgomery about possible illegal classification of performers as independent contractors. The letter requests information about EPCOT.[17]

Crumbley responded to this request on January 21, 1997, with a list of all EPCOT performers, alien performers, third party contractors working at EPCOT, and talent contracted through International Talent Booking.[18]

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[9] Id.
[10] Id.
[11] Id.
[12] Id.
[13] Id.
[14] Id.
[15] Randy Garfield, Frank Ioppola, Ronald F. Logan, Philip Lengyel, Larry Billman, Ed Fouche, Lee Schmudde, Jeffrey H. Smith, Linda K. Warren, Barbara Ishfin, James Lomonosoff, Norman Merritt, Howard Pickett, Andrew Rusinack, Anne L. Buettner, Janet Santoro, Sanford M. Litback, and Marsha L. Reed.
[16] Id.
[17] (1) The name, pay rate and date, classification, and date of hire of every nonsupervisory employee; (2) the same information for any nonsupervisory employee working at EPCOT under an individual employment contract with International Talent Booking; (3) the same information as to alien performers not signed to an Equity individual employment contract; (4) for all employees not included in the foregoing paragraphs, the name and address of the employee's employer;and (5) the same information for all performers subcontracted through International Talent booking to work at Boardwalk, Disney/MGM Studios, the Magic Kingdom, or any other location described in the scope clause of the CBA. Id.
[18] Id.

4. The February 14, 1997 information request for a corporate tree involving multiple entities

On February 14, 1997, Equity Representative Waaser wrote to Worldco Representative Crumbley, and requested a corporate tree showing Worldco and all affiliated entities. Waaser expressed the belief that employees who should be covered by the CBA were not being covered. Waaser presented a list of 17 "corporate entities" employing individuals who should be covered by the CBA.[19]

Worldco Attorney Carol Pacula's letter to Waaser dated March 25, 1997, previously referred to, lists all the entities named in Waaser's letter. Pacula asserts that all the entities, except three, are divisions, departments, categories of activities, or functions. The corporate entities, in addition to Walt Disney Attractions, Inc., are Disney Vacation Development, Inc., which operates Worldco's Vero Beach Resort and Hilton Head Island Resort, and Disney Special Programs, Inc., d/b/a Disney Business Productions, which uses Worldco performers to provide entertainment, and provides communications services to various companies and businesses throughout the world.[20]

On June 11, 1997, Worldco representative Crumbley wrote to Equity Representatives Orfan and Waaser that she was unaware of any employee covered by the CBA who had been employed by any of the firms listed by Waaser. Accordingly, Crumbley asked for the names and dates of performances. Once she had received this information, she could evaluate the information request.[21]

5. The June 27, 1997 information request

Equity Attorney Orfan replied on June 27, 1997, that Equity would provide whatever information it had. "However, it is precisely because the Employer has access to all of this information and Equity does not (other than whatever anecdotal information it comes across) that Equity needs the Employer to provide the information requested in the letters of September 11, 1996, and February 14, 1997 . . . . Ultimately, all the Union wants is to have its contract applied to those to whom it should be applied."[22]

Crumbley's July 22, 1997 letter to Waaser listed the executives common to the remaining two entities admitted to be corporations. For Disney Vacation Development, Inc., there was one.[23] However, Worldco and Disney Special Programs had the same president and director,[24] while 13 out of 14 of the remaining executives of Disney Special Programs, Inc. have titles and job descriptions identical or similar to those they held with Worldco.[25] As indicated in Worldco Attorney Carol Pacula's letter of March 25, 1997, Worldco agrees that Disney Vacation Development, Inc. and Disney Special Programs, Inc. are corporations. Worldco Representative Crumbley stated in her letter of July 22, 1998, to Equity's representative, Waaser, that all of the stock of these two corporations, as well as that of Worldco and Walt Disney Attractions, Inc., is owned by Disney Enterprises, Inc.

C. Legal Conclusions

1. Applicable principles

An employer is obligated to furnish information needed by the bargaining representative of its employees in order to perform its representational duties. *NLRB v. Truitt*, 351 U.S. 149 (1956). One of these duties is contract administration. *Barnard Engineering Co.*, 282 NLRB 617, 619 (1987).

There is a presumption of relevance of the requested information if it deals with employees in the bargaining unit, or pertains to wages and other benefits. However, if the request does not relate to bargaining unit personnel, the requesting party must prove the relevance of the requested information. *Reiss Viking*, 312 NLRB 622, 625 (1993); *Duguesne Light Co.*, 306 NLRB 1042 (1992).

A "liberal discovery-type standard" is utilized in determining whether relevance has been established. *NLRB v. Acme Industrial*, 385 U.S. 432, 437 (1967). A union has satisfied its burden when it demonstrates a reasonable belief supported by objective evidence for requesting the information. *Knappton Maritime Corp.*, 292 NLRB 236, 238–239 (1988). *Postal Service*, 310 NLRB 391 (1993). Potential or probable relevance is sufficient to give rise to an employer's obligation to provide information. *Reiss Viking*, supra; *Children's Hospital*, 312 NLRB 920, 930 (1993); *Pfizer, Inc.*, 268 NLRB 916, 918 (1984), enfd. 763 F.2d 887 (7th Cir. 1985). An information request may be based on hearsay. *Magnet Coal*, 307 NLRB 444 fn. 3 (1992); *Leonard B. Herbert Jr*, 259 NLRB 881, 885 (1981), enfd. 696 F.2d 1120 (5th Cir. 1983), cert. denied 464 U.S. 817 (1983).

2. The September 11, 1997 and January 6, 1997 information requests

The complaint alleges that the information requested in the Union's September 11 and January 6, 1997 request, is relevant, and that Respondent has violated Section 8(a)(1) and (5) of the Act by delaying or refusing to supply the information.

A summary of the evidence shows that Worldco executives told Equity in April 1996, that the company planned an expansion into live entertainment. The Union received audition notices by entities with names sounding like Disney organizations, "Walt Disney Attractions." On September 11, 1996, the Union sent Worldco a request for information on "Walt Disney Attractions Entertainment," saying that it had reliable information that it might be an alter ego of Worldco. The latter replied

[19] (1) Walt Disney Entertainment; (2) Walt Disney Attractions; (3) Walt Disney Attractions Entertainment; (4) Disney World Co. Talent Booking; (5) CBC Creative, Inc.; (6) Disney Business Productions; (7) Disney's Vero Beach Resort—(what entity or entities employ(s) performers employed at this location?); (8) Disney's Hilton Head Resort—(what entity or entities employ(s) performers employed at this location?); (9) Creative entertainment. Please let us know if Creative Entertainment became Attractions Entertainment effective May 19, 1996 (or on any other date and provide the date and circumstances of the change); (10) Disney Entertainment Productions; (11) Disney Development Company (a) Magic Kingdom, (b) Pleasure Island); (12) Walt Disney Engineering; (13) Imagineering; (14) Vacation Disney Development Company; (15) Magic Kingdom Entertainment; (16) Studio Entertainment; and (17) EPCOT Entertainment. International Talent Booking was also listed in the letter, but the General Counsel withdrew it from the complaint. Id.

[20] Id.

[21] Id.

[22] Id.

[23] Matthew A. Ouimet.

[24] Judson Green.

[25] Randy Garfield, Diana Morgan, Ronald F. Logan, Gene Aguel, Robert M. Allen, Ric Florell, Valerie Oberle, Anne L. Buettner, Andrew P. Rusinak, Janet Santoro, Marsha L. Reed, Lee Schmudde, and Sanford M. Litback.

with a demand for the "reliable information." On January 6, 1997, the Union repeated the request, and asked for a "corporate tree" showing the relationship between Worldco and "Walt Disney Attractions Entertainment Company," together with information on whether certain employees were within the Equity or a Teamster bargaining unit.

On February 3, 1997, Worldco informed the Union that neither "Walt Disney Attractions Entertainment" nor "Attractions Entertainment" was a corporate entity, but were merely phrases describing an entertainment function. On March 25, 1997, Worldco agreed that "Walt Disney Attractions Inc." was a corporation affiliated with but not owned by Worldco. Equity responded on June 27, 1997, with a request for the relationship between "Walt Disney Attractions, Inc." and "Walt Disney Attractions Entertainment" and information on the "affiliates, subsidiaries, divisions, departments, and subcontractors" of Worldco. The latter sent two letters on July 22, 1997, 5 days before the start of the hearing. The first repeated Worldco's position that there was no legal entity named "Walt Disney Attractions Entertainment" or "Attractions Entertainment." Nonetheless, on the same date, Worldco wrote a letter to Equity giving information on "Walt Disney Attractions, Inc.," which, it had agreed, was a corporation. This information shows that the two corporations have the same president, and 18 executives with the same or similar titles and job descriptions. In addition, all of the stock of Worldco and "Walt Disney Attractions, Inc." is owned by Disney Enterprises.

The General Counsel argues that Equity has advanced a reasonable basis for the information request, citing *Shoppers Food Warehouse*, 315 NLRB 258, 259 (1994).[26]

Respondent argues that the request attempts to determine whether an alter ego relationship exists between corporations and mere "names." Respondent agrees that Equity may have "subsidiary" concerns about noncoverage of some of its represented employees, but believes that this is based upon its alter ego theory. Equity has not presented any "objective facts" to supports its request, and is the victim of its own "self-confusion."[27] Respondent's witnesses argued that "Walt Disney Attractions Entertainment" and "Attractions Entertainment" were not legal entities, and that Worldco could not have an alter ego relationship with itself.

The significant fact in this dispute is the close similarity between "Walt Disney Attractions Entertainment," "Attractions Entertainment" (called mere phrases by Respondent), and "Walt Disney Attractions, Inc.," an admitted corporation. As to the latter, Respondent did supply some information.[28] Defects in complaints are not held to be bars to a finding of unlawful conduct where no prejudice resulted, and the Respondent was prepared for, and participated in the hearing. *NLRB v. Dredge Operators*, 19 F.3d 206 (5th Cir. 1994). The same reasoning applies herein. Equity's original request was sufficient to put Worldco on notice that Equity was actually inquiring about Walt Disney Attractions, Inc., which has a common parent and interlocking executives with Worldco. Equity protested that it did not know the numerous names under which Worldco did business, and asked for them—a request to which Worldco did not respond.

I conclude on the authority cited above that Equity has supplied a reasonable basis for its information request, and that Worldco did not purport to answer the request until about 10 months after the initial request. Even at that date, Worldco asserted that it had "no knowledge" of any contracts between it and Walt Disney Attractions, Inc. Yet Worldco Attorney Pacula stated on March 25, 1997, that Walt Disney Attractions, Inc. "may hire performers from time to time"—presumably Worldco performers. Worldco's denial of knowledge is incredible. As to the fourth requested information item—commitments to use the personnel or equipment of the other company, Worldco first denies that there are any such commitments, and then admits that it furnishes services to Walt Disney Attractions, Inc, and that the latter furnishes services to Disney entities such as Walt Disney World Resort. This response is contradictory and incredible. Worldco's responses to the remaining requests are similarly doubtful or ambiguous. If Worldco did not actually know the answers to some of the questions, it had the obligation to inquire—of its corporate cousins, departments, divisions, or "phrases"—and transmit the information to Equity. *Arch of West Virginia*, 304 NLRB 1089 fn. 1 (1991). This it did not do.

Finally, I reject Worldco's claim that the information request was overly burdensome, or requested confidential material. Respondent has not advanced any reason for its assertion that the request was burdensome, and was able to provide a multitude of computerized pages 5 days before the hearing. Crumbley testified that this took 30–40 hours. Respondent has not advanced any reason for its claim of confidentiality or come forward with any ways to solve this asserted problem. *Public Service Co. of Colorado*, 301 NLRB 238 (1991).

I conclude that Respondent has violated Section 8(a)(1) and (5) by refusing to provide a substantial number of the information requests made by Equity on September 11, 1997, and by unlawfully delaying partial responses. *Endicott Forging & Mfg.*, 319 NLRB 180 (1995); *Samaritan Medical Center*, 319 NLRB 392 (1995).

Respondent has also raised a procedural issue. On September 25, 1998, the due date for briefs, it filed by facsimile a supplemental brief in which it argues, inter alia, that the allegations based on the January 6, 1997 information request are barred by Section 10(b) of the Act. On September 30, 1998, the General Counsel filed a motion to strike the supplemental brief on the ground that it was improperly filed. In the alternative, the General Counsel points out that the first amended charge was filed on January 21, 1997, and alleges that Respondent has violated the Act "since September 11, 1996." The General Counsel also argues that the first amended charge is closely related to the allegations in the original charge under the criteria set forth in *Redd-I*, 290 NLRB 1115 (1988). Respondent then filed an objection to the General Counsel's motion to strike. Respondent also made the same argument with respect to later information requests, considered infra.

The original charge was filed on November 13, 1996; the first amended charge, filed on January 21, 1997, after the Union's January 6, 1997 letter, repeats essentially the same allegations in the original charge. Further, the issues in the allegations of the January 6, 1997 letter, although made more than 6 months before the second amended charge on August 7, 1997, are closely related to the issues in the latter charge under the

[26] G.C. Br. 9.

[27] R. Br. 3–7.

[28] Although the issue of alter ego relationship is not before me, merely the information request, I note that the information which Respondent did supply shows common officers and ownership of the stock of both corporations by Disney Enterprises.

criteria announced in *Redd-I*. Accordingly, I reject Respondent's argument that the allegations in the January 6, 1997 letter are barred by Section 10(b). I deny the General Counsel's motion to strike Respondent's supplemental brief.

3. The February 14 and June 27, 1997 information requests

The complaint alleges that the information requested by the Union on February 14 and June 27, 1997, was not supplied, or was unlawfully delayed by Respondent.

The evidence shows that, on February 14, 1997, the Union requested a "corporate tree" from Respondent, showing all affiliated entities. Seventeen such "corporate entities" were named, and the Union stated the belief that they employed individuals covered by the CBA. Respondent replied that it was unaware of any such instances, but would respond if Equity could supply the names and dates of performances. The Union replied that it did not have access to this information, but that Respondent did know the facts. Equity simply wanted to have the CBA applied to individuals to whom it should apply.

Respondent advances a series of arguments. First, it argues in its brief that the "entity" involved in the prior information requests, "World Disney Attractions Entertainment (Company)" is "merely a division of Worldco."[29] Worldco Attorney Pacula stated in a letter that the other entities about whom the Union inquired were Worldco departments or trade names. If this is correct, then the employees were Worldco employees, and any information concerning them was as presumptively relevant under the authority cited above, without any independent proof of relevance.

Worldco responded that it was unaware of any employee covered by the CBA who had been employed by any of these entities (its own departments), and demanded that Equity supply Worldco with the names and dates of the performances. Equity replied that this information was available to Worldco, not the Union, and that all it wanted was that the CBA apply to employees covered by it.

Worldco obviously knew the job assignments of its own employees, and its response to Equity was a sham. The Board has found that refusals to provide similar information about employees were unlawful.[30]

Worldco next returns to its basic argument—that Equity's information request was based on an erroneous belief that there was an alter ego relationship between Worldco and entities which are not corporations. "Although Equity's subsidiary concern is possible noncoverage under the CBA of unnamed individuals, that concern is based exclusively on the suspicion that there may be an alter ego relationship between Worldco and one or more other employers.[31]

This argument has no merit in light of Equity Attorney Orfan's letter of June 27, 1997, in which she states that Equity simply does not know the names of Worldco's affiliates, subsidiaries, divisions, departments, or subcontractors, and requests this information. This request is scarcely a statement that the entities are corporations. If Equity's belief that they might be corporations was erroneous, it was Worldco's obligation to answer Equity's request about the assignments of Worldco employees. This it did not do. Worldco frankly admits that Equity had a concern (which it calls "subsidiary") about noncoverage of employees.

I conclude that Worldco has unlawfully refused to supply Equity with information about the job assignments of its own employees covered by the CBA. As I have found above, it also unlawfully delayed supplying Equity with information about entities which it acknowledged were corporations, and failed to supply other requested relevant information.[32]

4. Summary of Respondent's partial responses to Equity's information requests

The General Counsel acknowledges receipt of the following information from Respondent on July 23, 1997:

> (1) Worldco's exempt or salaried employees for 1993–1997;
>
> (2) Employees represented by the Teamsters for 1993–1997 ("Characters");
>
> (3) A list of bargaining unit employees for 1993 to 1997;
>
> (4) A list of talent contracts which applies only to Worldco;
>
> (5) Limited information about the supervisors and corporate directors of Worldco, Walt Disney Attractions; Disney Vacation Development, and Disney Special Programs d/b/a Disney Business Productions;
>
> (6) A list of 3 performers who performed at the Hilton Head Resort.[33]

The General Counsel argues that these submissions are insufficient in the following respects:

> (1) The information referred to in (1) above is insufficient because it does not provide specific information, i.e., job duties[34] and refers only to Worldco and not Walt Disney Attractions Entertainment Co.[35] I have found above that the latter designation was sufficient to put Respondent on notice that Walt Disney Attractions, Inc., an admitted corporation, was the entity intended by the information request.
>
> (2) The information listed in (2) above is insufficient because it does not list employees in the unit represented by the Union, or who were not in any unit, and refers only to Worldco employees, not to Walt Disney Entertainment Co. (see above). [36]
>
> (3) The information listed in (3) above is insufficient because it refers only to bargaining unit employees, not to those in Walt Disney Attractions Entertainment Co. (see above).

[29] R. Br., 12.

[30] *Hospitality Care Center*, 307 NLRB 1131 (1992) (employees' name, addresses, wage rates, dates of hire, and job classifications); *Beverly Enterprises*, 310 NLRB 222 (1993) (use of "pool nurses," and work schedules for holidays); *Yeshiva University*, 315 NLRB 1245 (1994) (lists of union members who worked on a day before a holiday, dates of hire, number of hours worked, and rates of pay); *National Broadcasting Co.*, 318 NLRB 1166 (1995) (structure and management of subsidiaries, employee interchange, and integration of operations).

[31] R. Br. 4.

[32] In its supplemental brief, Respondent argues that the allegations regarding failure to supply information on February 14 and June 27, 1997, were also barred by Sec. 10(b). This argument is without merit, as both of these alleged infractions took place within 6 months of the second amended charge on August 7, 1997.

[33] G.C. Br. 5.

[34] G.C. Exh. 1(w), par. 6(a).

[35] G.C. Br. 6.

[36] G.C. Exh. 1(w), par. 7(b); G.C. Br. 5.

(4) The information listed in (4) above is insufficient in that it refers only to Worldco employees, and does not list the employees of the 17 entities mentioned in the complaint.[37]

(5) The information listed in (5) above is insufficient in that it refers only to four companies, and does not list information about the current directors of the 17 entities.[38]

(6) The information listed in (6) above is insufficient in that it lists performers "at only one entity" (Hilton Head), and does not list those performing at the 16 other entities.[39]

With the exception of the foregoing submissions of evidence by Respondent, the General Counsel contends that Respondent has not supplied the information requested by the Union.

5. Final conclusions

The Union has requested information about employees in the bargaining unit, information which is presumptively relevant. It has also requested information on employees in other corporations, and has satisfied the Board's standards for relevance of this information. Respondent has failed to supply some of the requested information and has unduly delayed supplying the remainder.

Respondent argues that the Union's information requests were made in bad faith. This argument has no merit. As the Union pointed out, it was simply trying to determine whether the provisions of the CBA were being applied to employees covered by it. Respondent's contentions that the requested information was too burdensome to supply, or confidential, have not been supported by evidence.

On the basis of the foregoing findings of fact and the entire record, I make the following

CONCLUSIONS OF LAW

1. The Respondent, Walt Disney World Co., is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. Actors' Equity Association is a labor organization within the meaning of Section 2(5) of the Act.

3. At all times material, the Union has been and continues to be the exclusive representative of Respondent's employees described in section II(A) of this Decision, which constitutes an appropriate unit for collective bargaining.

4. By refusing on and after September 11, 1996, to furnish the Union with relevant information, and by delaying the production of such information, Respondent has violated Section 8(a)(1) and (5) of the Act.

5. The foregoing unfair labor practice affects commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that the Respondent has engaged in unfair labor practices, I shall recommend that it cease and desist therefrom, and take certain affirmative action necessary to effectuate the purposes and policies of the Act.

I shall recommend that Respondent be required to supply the information requested by the Union, as described in this decision, except information which it has already supplied. The latter issue can be decided in a supplemental proceeding.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended: [40]

ORDER

The Respondent, Walt Disney World Co., Orlando, Florida, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to honor requests from Actor's Equity Association for information necessary and relevant to the Union's performance of its responsibilities in representing employees of Respondent for the purpose of collective bargaining.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under Section 7 of the Act.

2. Take the following affirmative actions necessary to effectuate the policies of the Act.

(a) Furnish the Union with all the information requested by it since September 11, 1996, except that which it has already supplied.

(b) Within 14 days after service by the Region, post at its Orlando, Florida facility, copies of the attached notice marked "Appendix."[41] Copies of the notice, on forms provided by the Regional Director for Region 12, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 11, 1996.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

[37] G.C. Exh. 1(w), par. 8(e); G.C. Br. 6.

[38] G.C. Exh. 1(w), par. 7(c), 8(f); G.C. Br. 7.

[39] G.C. Exh. 1(w), par. 8(e); G.C. Br. 7.

[40] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[41] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."